

Union Square Theatre Management, Inc. and Theatrical Protective Union, Local One, I.A.T.S.E., AFL-CIO. Cases 2-CA-28430 and 2-RC-21540

February 12, 1999

ORDER DENYING MOTION

BY MEMBERS FOX, LIEBMAN, AND HURTGEN

On August 17, 1998, the National Labor Relations Board issued a Decision and Order in this proceeding.¹ In that decision, the Board held that the administrative law judge had properly allowed the Respondent to relitigate the issue of whether its technical directors were employees, as the Regional Director had found in his Decision and Direction of Election in Case 2-RC-21540, or statutory supervisors, as the Respondent contended. However, the Board reversed the judge's finding that the technical directors were employees and found, instead, that they were supervisors. Because the unfair labor practices alleged in the complaint were directed toward the technical directors, the Board dismissed the complaint in Case 2-CA-28430. And because the Charging Party Union had petitioned to represent a bargaining unit consisting entirely of the technical directors, the Board also dismissed the petition in Case 2-RC-21540.

¹ 326 NLRB 70 (1998).

On October 14, 1998, the Union filed a Motion for Reconsideration of the Board's Decision and Order. In support of its motion, the Union contends that the Board erred in allowing the Respondent to relitigate the issue of the technical directors' status. It also contends that the Board erred in finding the technical directors to be supervisors.

The Board has delegated its authority in this proceeding to a three-member panel.

The Board having duly considered the matter,¹

IT IS ORDERED that the Charging Party's Motion for Reconsideration is denied as lacking in merit.²

¹ The Union has called our attention to the fact that, after the administrative law judge issued his decision, the General Counsel attempted to file exceptions and a supporting brief. Those documents were not forwarded to the Board members and therefore were not considered by the Board in its earlier Decision and Order. We have carefully considered the General Counsel's arguments and find that they do not require a different result.

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